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Volel Emile International Business Machines Corporation Intellectual Property Law Department 11400 Burnet Road, Internal Zip 4054 Austin, TX 78758			STORK, KYLE R	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/899,454

Filing Date: July 05, 2001

Appellant(s): MCBREARTY ET AL.

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J.B. Kraft  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 28 March 2006 appealing from the Office action mailed 12 January 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2002/0016786	Pitkow et al.	2-2002
6032162	Burke	2-2000

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-6, 8-18, 20-30 and 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al. (herein after Ryan) U.S. Patent No. 6,421,675 B1 filed 7/15/1998 in view of Pitkow et al. (herein after Pitkow) U.S. Patent Pub No. 2002/0016786 A1 filed 12/4/2000.**

**In regard to independent claim 1, Ryan discloses *In a World Wide Web (Web) communication network with user access via a plurality of data processor controlled interactive receiving display stations for displaying received hypertext documents of at least one display page containing text and images transmitted from sources on the Web* (Ryan Col 3 Lines 66-67 and Col 4 Lines 1-11) *means associated with one of said receiving display stations for ... of selected received Web documents to thereby store at said receiving display station, direct links to the sources of said Web documents* (Ryan Col 9 Lines 15-20 i.e. embedded links); *means for tracking the rates of Web documents transmitted from each of said sources during daily time cycles* (Ryan Col 22 Lines 12-21 i.e. shows that daily times can be determined); *...data on the rates of transmission of***

*said ... documents at the time of said display.* (Ryan Col 4 Lines 1-5 and Col 4 Lines 35-41 i.e. computer containing displays for displaying data to the user)

Ryan does not specifically go into detail about the data searched being bookmarked for the user *and means at said receiving display station for displaying in association with a displayed list of bookmarks for Web documents and a system for bookmarking of selected received Web documents.* However, Pitkow references the use of bookmarking (Pitkow Para 0136). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Pitkow to Ryan, providing Ryan the benefit of bookmarking the search results to properly categorize the users data results as taught by Pitkow Paragraph 136.

**In regard to dependent claim 2,** Ryan discloses *wherein said data on the rates of transmission are indicators at each of said bookmarks* (Ryan Col 7 Lines 15-30 i.e. web past list popularity at the highest rate).

Ryan does not specifically go into detail about the data searched being bookmarked for the user *and a system for bookmarking of selected received Web documents.* However, Pitkow references the use of bookmarking (Pitkow Para 0136). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Pitkow to Ryan, providing Ryan the benefit of bookmarking the search results to properly categorize the users data results as taught by Pitkow Paragraph 136.

**In regard to dependent claim 3,** Ryan discloses *wherein at least one of said Web document source is a Web site including: said means for tracking further including means for tracking the hourly hit rates for requested specific Web documents* (Ryan Col

16 Lines 22-27 i.e. mentions interval in hours for data results and Col 12 Lines 27-29 i.e. hits).

**In regard to dependent claim 4,** Ryan discloses *wherein at least one of said indicators of said rate of transmission includes: means for requesting from the Web sites of each of a plurality of Web documents ... at said receiving display station* (Ryan Col 11 Lines 19-27 i.e. request keywords and phrases), *the hourly hit rates for each ... document* (Ryan Col 16 Lines 22-27 i.e. mentions interval in hours for data results); *and means for storing said hourly hit rates.* (Ryan Claim 1)

Ryan does not specifically go into detail about the data searched being bookmarked for the user *and a system for bookmarking of selected received Web documents.* However, Pitkow references the use of bookmarking (Pitkow Para 0136). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Pitkow to Ryan, providing Ryan the benefit of bookmarking the search results to properly categorize the users data results as taught by Pitkow Paragraph 136.

**In regard to dependent claim 5,** Ryan discloses *wherein said means for requesting the hourly hit rates of ... Web documents periodically request the hit rates whereby said stored hit rates are periodically updated.* (Ryan Col 16 Lines 22-27 i.e. mentions interval in hours for data results and Col 12 Lines 27-29 i.e. hits)(Ryan Col 35 Lines 47-52 i.e. popularity lists are updated)

Ryan does not specifically go into detail about the data searched being bookmarked for the user *and a system for bookmarking of selected received Web documents.* However, Pitkow references the use of bookmarking (Pitkow Para 0136). It

would have been obvious to one of ordinary skill in the art at the time of the invention to apply Pitkow to Ryan, providing Ryan the benefit of bookmarking the search results to properly categorize the users data results as taught by Pitkow Paragraph 136.

**In regard to dependent claim 6**, Ryan discloses *wherein said at least one indicator of the rate of transmission indicates both high and low hit rates.* (Ryan Col 25 Lines 20-22 i.e. low ranking and Col 23 Lines 50-55 i.e. popular and high-flying pages)

**In regard to dependent claim 8**, Ryan discloses *wherein said high and low hit rate ... Web documents are indicated by displaying the high hit rate ... and low hit rate ... in different menus.* (Ryan Col 25 Lines 20-22 i.e. low ranking and Col 23 Lines 50-55 i.e. popular and high-flying pages and Col 12 Lines 27-29 i.e. hits)(Ryan Col 19 Lines 54-65 i.e. drop down menu on search page)

Ryan does not specifically go into detail about the data searched being bookmarked for the user *and a system for bookmarking of selected received Web documents.* However, Pitkow references the use of bookmarking (Pitkow Para 0136). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Pitkow to Ryan, providing Ryan the benefit of bookmarking the search results to properly categorize the users data results as taught by Pitkow Paragraph 136.

**In regard to dependent claim 9**, Ryan discloses *a web browsing means at said receiving display station including (Ryan Abstract internet search engine): and said means for providing at the displayed..., an indicator of said rate of transmission of said document at the time of said request.* (Ryan Col 8 Lines 65-67 i.e. date-time)

Ryan does not specifically go into detail about the data searched being bookmarked for the user *and said means for bookmarking of selected received Web documents*. However, Pitkow references the use of bookmarking (Pitkow Para 0136). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Pitkow to Ryan, providing Ryan the benefit of bookmarking the search results to properly categorize the users data results as taught by Pitkow Paragraph 136.

**In regard to dependent claim 10,** Ryan discloses *means for requesting from the Web sites of each of a plurality of Web documents ... at said receiving display station the hourly hit rates for each ... documents; and means for storing said hourly hit rates.* (Ryan Col 11 Lines 19-27 i.e. request keywords and phrases and Col 12 Lines 27-29 i.e. hits) (Ryan Col 16 Lines 22-27 i.e. mentions interval in hours for data results) (Ryan Claim 1)

Ryan does not specifically go into detail about the data searched being bookmarked for the user *and said means for bookmarking of selected received Web documents*. However, Pitkow references the use of bookmarking (Pitkow Para 0136). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Pitkow to Ryan, providing Ryan the benefit of bookmarking the search results to properly categorize the users data results as taught by Pitkow Paragraph 136.

**In regard to dependent claim 11,** Ryan discloses *wherein said means in said Web browser for requesting the hourly hit rates of ... Web documents periodically request the hit rates whereby said stored hit rates are periodically updated.* (Ryan Col 11 Lines 19-27 i.e. request keywords and phrases and Col 12 Lines 27-29 i.e.

hits)(Ryan Col 16 Lines 22-27 i.e. mentions interval in hours for data results)(Ryan Col 35 Lines 47-52 i.e. popularity lists are updated)

Ryan does not specifically go into detail about the data searched being bookmarked for the user *and said means for bookmarking of selected received Web documents*. However, Pitkow references the use of bookmarking (Pitkow Para 0136). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Pitkow to Ryan, providing Ryan the benefit of bookmarking the search results to properly categorize the users data results as taught by Pitkow Paragraph 136.

**In regard to dependent claim 12,** Ryan discloses *said Web browser further includes means for requesting ... Web documents from their source Web sites; and said means for periodically requesting hit rates request such hit rates when said ...document is requested whereby said stored hit rates are updated for subsequent requests for said ... document.* (Ryan Col 11 Lines 19-27 i.e. request keywords and phrases and Col 12 Lines 27-29 i.e. hits) (Ryan Col 35 Lines 47-52 i.e. popularity lists are updated) (Ryan Claim 1)

Ryan does not specifically go into detail about the data searched being bookmarked for the user *and said means for bookmarking of selected received Web documents*. However, Pitkow references the use of bookmarking (Pitkow Para 0136). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Pitkow to Ryan, providing Ryan the benefit of bookmarking the search results to properly categorize the users data results as taught by Pitkow Paragraph 136.

**In regard to independent claims 13 and 25**, claims 13 and 25 reflect similar subject matter claimed in claim 1 and is rejected along the same rationale.

**In regard to dependent claims 14 and 26**, claims 14 and 26 reflect similar subject matter claimed in claim 2 and is rejected along the same rationale.

**In regard to dependent claims 15 and 27**, claims 15 and 27 reflect similar subject matter claimed in claim 3 and is rejected along the same rationale.

**In regard to dependent claims 16 and 28**, claims 16 and 28 reflect similar subject matter claimed in claim 4 and is rejected along the same rationale.

**In regard to dependent claims 17 and 29**, claims 17 and 29 reflect similar subject matter claimed in claim 5 and is rejected along the same rationale.

**In regard to dependent claims 18 and 30**, claims 18 and 30 reflect similar subject matter claimed in claim 6 and is rejected along the same rationale.

**In regard to dependent claims 20 and 32**, claims 20 and 32 reflect similar subject matter claimed in claim 8 and is rejected along the same rationale.

**In regard to dependent claims 21 and 33**, claims 21 and 33 reflect similar subject matter claimed in claim 9 and is rejected along the same rationale.

**In regard to dependent claims 22 and 34**, claims 22 and 34 reflect similar subject matter claimed in claim 10 and is rejected along the same rationale.

**In regard to dependent claims 23 and 35**, claims 23 and 35 reflect similar subject matter claimed in claim 11 and is rejected along the same rationale.

**In regard to dependent claims 24 and 36**, claims 24 and 36 reflect similar subject matter claimed in claim 12 and is rejected along the same rationale.

**Claims 7, 19 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al. (herein after Ryan) in view of Pitkow et al. (herein after Pitkow) as applied to claims 1, 13 and 25 and in further view of Burke U.S. Patent No. 6,032,162 filed 1/8/1998.**

**In regard to dependent claim 7,** Ryan does not disclose *wherein said high and low hit rate bookmarked Web documents are indicated by displayed bookmarks of different colors*. However, Burke mentions Bookmarks that can vary in color (Burke Col 8 Lines 20-25). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Burke to Pitkow and Ryan, providing Ryan the benefit of displaying the bookmarks with different colors so the user can easily distinguish between the different bookmark categories as taught by Burke Col 8 Lines 1-25.

**In regard to dependent claims 19 and 31,** claims 19 and 31 reflect similar subject matter claimed in claim 7 and is rejected along the same rationale.

#### **(10) Response to Argument**

The applicant argues that Ryan fails to "suggest the claimed invention or even a system or process which suggest that it would be modifiable (page 6). However, the Examiner respectfully disagrees. As the applicant acknowledges, Ryan teaches "an algorithm which does deal with Web source or site transmission activity or hit rates (page 7)." The applicant is correct in arguing that the algorithm in Ryan applies specifically to search engine activity. However, the applicant ignores Ryan's teaching of

a "Personal hit-list" in column 7, lines 37-40. Here, Ryan discloses the "Personal hit-list," as "a list of web-pages the individual user has found most useful for each key-word search they have done in the past. It is an automatic book-marking data set for each individual user (column 7, lines 37-40)." Here, Ryan suggests book-marking search results based upon usefulness to a user. Ryan further discloses combining several input data sets to generate a collective search hit-list (column 7, lines 54-62). This collective search hit-list contains data from both the "High-flyers hit list" which makes use of transmission activity and hit rates as well as the "Personal hit-list," comprised of bookmarked data sets.

Ryan therefore suggest the combination of a bookmarked data sets with hit rate data, in order to present a user a "ranked hit-list of Web-pages... after the keyword search" (column 7, lines 54-62).

Further, Pitkow discloses the use of bookmarking web documents received at a web station. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Ryan's method with Pitkow's method, since it would have allowed a user the benefit of bookmarking useful search results (Ryan: column 7, lines 37-40; Pitkow: paragraph 0136).

The applicant further argues that the combination of Ryan and Pitkow fail to disclose displaying activity rates in association with a list of bookmarked documents (page 8). However, the examiner respectfully disagrees. As stated above, Ryan discloses a "Collective Search hit-lists" feature, displaying activity rates associated with

the "High-flyers hit-list" in conjunction with the "Personal hit-list" making use of bookmarks (column 7, lines 15-62).

The applicant further argues that "carrying out ... functions in search engines is completely different from carrying out such functions by the Web browser (page 9)." However, the Examiner respectfully disagrees. The applicant discloses merely, "Web browsing means at said receiving display station (claim 9, lines 3-4)." This does not exclude the use of a search engine, accessed through a browser, from performing the method. Ryan similarly discloses use of a web browser (Abstract).

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
Kyle Stork

  
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SUPERVISOR - SPE ART EXAMINER

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